IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 544 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE R.P.DHOLAKIA

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAIYED AMIRUDDIN ALIMUDDIN - Appellant(s)
Versus
THE STATE OF GUJARAT - Opponent(s)

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Appearance :
MR LR PATHAN for Appellant(s) : 1,
MR RC KODEKAR APP for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.P.DHOLAKIA
and
HONOURABLE MR.JUSTICE MD SHAH

Date : 22/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.P.DHOLAKIA)

1. Heard learned counsel for the appellant Mr.L.R. Pathan and learned APP Mr.R.C. Kodekar for the respondent-State.

2. During the course of arguments, learned counsel for the appellant has fairly informed this Court after showing paragraph no.2 of the appeal memo that prior to this, the present appellant had preferred Criminal Misc. Application No.2902/2003 into the Special Court and same has been allowed vide order dated 28.11.2003, against which, Criminal Appeal No.1532/2003 has been preferred by the State and same has been disposed of by this Court (Coram : B.J. Shethna & J.R. Vora, JJ.) vide order dated 25.03.2004 with a liberty to file afresh into the Court below after receiving the chargesheet. In pursuance of that, the present appellant had preferred Criminal Misc.

Application No.963/2004 into the Court below and same has been rejected on merits by the Special Court vide order dated 30.04.2004, against which, Criminal Appeal No.789/2004 has been preferred by the present appellant into this Court and same has been finally disposed of as rejected by this Court (Coram : K.R. Vyas & Akshay H. Mehta, JJ.) vide order dated 12.07.2004, against which, the appellant went into the Supreme Court and same has been rejected. Thereafter, again the present appellant has preferred Criminal Misc. Application No.93/2005 and same has been rejected by the Court below vide order dated 21.02.2005, against which, the present appeal has been filed.

3. The main contention raised by the learned counsel for the appellant, Mr.L.R. Pathan after reading the FIR and other evidence on record including the statement of the present appellant recorded by the concerned officer under Section 32 of the POTA Act and also

statement of co-accused is that to connect the present appellant with the crime in question, only evidence on record is of his own statement under Section 32 of the POTA Act as well as the statement of the co-accused, for which, he has also drawn our attention towards the judgment of the Apex Court in case of Navjotsinh Sandu etc.

4. The learned APP Mr.R.C. Kodekar has drawn our attention regarding the previous order passed by the High Court. Along with that, he has also drawn our attention that same has been carried to the Apex Court and same has been rejected. It is also argued that even while deciding the same by the Division Bench of this Court, all the contentions have been dealt, which has been raised by the learned counsel for the appellant at this stage and same has not been denied by the other side.

5. The fact remains that this is a successive appeal filed against the order below bail application by the appellant and law regarding

the Section 32 of the POTA Act has been settled by the Apex Court even in the judgment of Navjotsingh Sandu reported in (2005)11 SCC 600.

6. Keeping in mind all aspects of the matter and also we are also aware that previously also, it has been dealt with on merits and also fact that trial has already begun and, therefore, if we will opine regarding the evidence on record then certainly it will affect the interest of all concerned including the present appellant and the State also.

7. Under the circumstances, this successive appeal for bail stands dismissed. Notice is discharged.

(R.P.DHOLAKIA, J.) (M.D.SHAH, J.)

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